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Linda Menrik

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

EXAMINER

SCRUGGS, ROBERT J

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/593,039
Filing Date: September 30, 2008
Appellant(s): MENRIK ET AL.

Michael Phelps
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 16, 2010 appealing from the Office action mailed June 16, 2010.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-18

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

7,013,528	Parker et al.	3-2006
6,021,545	Delgado et al.	2-2000
3,319,278	Frazer	5-1967

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2, 7-9 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker et al. (7013528) in view of Delgado et al. (6021545).

In reference to claim 1, 14 and 16, Parker et al. disclose a floor cleaning implement comprising: a handle (12) pivotally mounted on a base (14), said base supporting a brush arrangement (16) and a dust collecting container (80 or 54), the dust collecting container being adapted to receive via a dust inlet (94) dust particles by the brush arrangement (16), said base also being provided with a removably attached cloth holder (110) (said cloth holder is interpreted as being removably attached because it can be removably attached to the base at catch (152) when in a closed position and removably pivoted from said closed position to an open position, as seen in Figures 13a, 13b and

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17) having a plate (116) facing the floor (Figure 12), the plate (116) being adapted to be covered by a dust cloth (118), but lack, a liquid container and means for distributing liquid directly or indirectly to the cloth. However, Delgado et al. teach that it is old and well known in the art to distribute liquid onto a cleaning cloth (95) (Figure 30) by using a liquid container (23) and means (formed as applicator 21) for distributing liquid directly or indirectly to cloth (95). It would have been obvious to one of ordinary skill in the art to modify the cloth holder, of Parker et al., with the known technique of distributing liquid onto a cleaning cloth, as taught by Delgado et al., and the results would have been predictable. In this situation, one could provide a continuous supply of cleaning liquid onto a cloth thereby more effectively cleaning various surfaces while also enabling continuous working on said surfaces in one single operation.

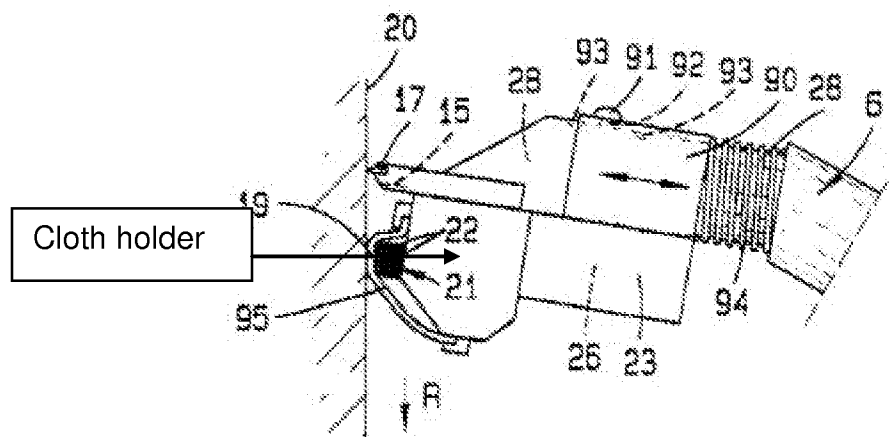
In reference to claim 2, Parker et al. also disclose that the brush arrangement includes at least one electrically driven brush (32) (Column 3, Lines 6-10).

In reference to claim 7, Parker et al. also show that the cloth holder (110) is removably arranged on the base (14) (Figure 12).

In reference to claims 8, 15, 17 and 18, Delgado et al. also teach that a cloth holder (see figure below) can be provided with said liquid distributing means (21). It would have been obvious to one of ordinary skill in the art to modify the cloth holder, of Parker et al., with the known liquid distributing means, as taught by Delgado et al., and the

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results would have been predictable. In this situation, one could provide a continuous supply of cleaning liquid onto a cloth thereby more effectively cleaning various surfaces while also enabling continuous working on said surfaces in one operation.

Fig. 30

In reference to claim 9, Delgado et al. also show that the liquid container (23) is an integrated part of said cloth holder (see figure above).

Claims 3-6 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker et al. (7013528) in view of Delgado et al. (6021545) and Frazer (3319278).

In reference to claims 3 and 10, Parker et al. disclose the claimed invention previously mentioned above, but lack, using two brush rolls arranged such that the brush axes are non parallel. However, Frazer teaches a technique of forming a cleaning device with two

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brush rolls arranged such that the brush axes are non parallel (16) (Figure 2). It would have been obvious to one of ordinary skill in the art to modify the brush arrangement, of Parker et al., with the known technique of forming a cleaning device with two brush rolls arranged such that the brush axes are non parallel, as taught by Frazer, and the results would have been predictable. In this situation, one could provide a brush arrangement having brushes formed in a V-shape with the vertex angle being selectively adjustable between acute and obtuse angles thereby more effectively removing material from the surface being cleaned.

In reference to claims 4 and 11, Frazer also shows that the said brush axes are arranged in a V-shaped pattern (Figure 2).

In reference to claims 5 and 12, Frazer also shows that the tip of the V is placed in the forward movement direction of the implement (Figure 2).

In reference to claims 6 and 13, since Parker et al. already teach that the dust inlet (94) corresponds to the angular displacement of brush (32) therefore the combination of Parker et al. (7013528) in view of Delgado et al. and Frazer would obviously provide a dust inlet corresponding to the angular displacement of brushes (16).

(10) Response to Argument

Appellants contend, on page 10, of the appeal brief that, **"There is no motivation to combine Parker and Delgado"** and further states, **"As noted above, all of the claims recite a floor cleaner having the unique combination of a brush arrangement, a dust collecting container that receives dust particles thrown by the brush arrangement, and a wetted dust cloth. Note that the claimed dust collecting container receives the particles that are "thrown" by the brush--that is to say, the floor cleaner is a "sweeper" type device that uses the force of the rotating brush to strike the dust to throw it into the container. This is in contrast to "vacuum cleaner" arrangements in which the particles are beaten from the surface by the brush, and conveyed to a dirt container by a suction air flow."**

However, the examiner respectfully disagrees with this statement. While, Parker does not disclose applying liquid to a cloth this reference does teach of throwing particles into the container by normal operation of the brush (Column 5, Lines 32-40). Next, Delgado teaches that it is old and well known in the art to combine a liquid applying mechanism within a vacuum operated cleaning device (which is the same device Parker's). The examiner believes that the applicant is interpreting each reference individually rather than interpreting what the primary reference lacks and what special feature the secondary reference teaches. The combination as a whole meets all the limitations of the claims and the motivation for the combination is to provide a device that allows continuous supply of cleaning liquid onto a cloth thereby more effectively cleaning

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various surfaces while also enabling continuous working on said surfaces in one operation (Column 1, Lines 41-50) therefore the examiner believes the rejection is proper and thus maintained.

Appellants contend, on the bottom of page 12, of the appeal brief that, "**Neither prior art reference suggests its features can be used with the device shown in the other reference.**" However, the examiner respectfully disagrees with this statement. Each reference does not have to specifically disclose that it may be used with another specific reference. Both references are concerned with cleaning surfaces by using a device having both a vacuum and a cloth. Delgado only teaches of providing a liquid application mechanism to the cloth thereby providing device that allows continuous supply of cleaning liquid onto a cloth thereby more effectively cleaning various surfaces while also enabling continuous working on said surfaces in one operation therefore the examiner believes the rejection is proper and thus maintained.

Appellants contend, on page 14, of the appeal brief that, "**The Alleged 'More Effective Cleaning' Motivation Is Erroneous.**" However, the examiner respectfully disagrees with this statement. By applying liquid to a cloth one will more effectively clean a surface having a material stuck thereon because the liquid will help in breaking down the material during the cleaning operation therefore the examiner believes the rejection is proper and thus maintained.

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Appellants contend, on page 15, of the appeal brief that, **“If the Parker device were modified to deposit liquid on the cloth, the liquid would soak both the floor and the dirt in front of the brush whenever the device is operated with the cloth ahead of the brush. Of course, housing the dirt with fluid would make it significantly more difficult to throw the dirt into the dust collection bin or even to remove it via suction (particularly in a low-power battery-operated device like Parker). The wet particles would tend to hydrostatically adhere to the floor and the brush. Larger pieces of dirt may become too heavy to lift or throw into the collection chamber. Smaller particles and dust would form a muddy slurry, and the brush would spray this in all directions. The resulting wet dirt spray would be unattractive and unsanitary, and may work into the seams of the machine to reach the electronics. Adding liquid to the dirt also would cause it to accumulate into large clumps that are likely to be too heavy to project all the way to the bin even if they do dislodge from the brush. Such clumps would foul the cleaning cloth when the direction is reversed, resulting in smears of dirt on the floor and likely ruining the cloth. In short, wetting the dirt and then striking it with the rotating brush would create a significant mess, and clearly would reduce the dirt-collecting capabilities of the Parker device. Ultimately, the proposed combination does not “more effectively clean [] various surfaces” as claimed by the Office Action; rather, the combination actually would decrease cleaning efficiency.”** However, the examiner respectfully disagrees with this statement because the device, of Delgado, uses a liquid applying mechanism in combination with vacuuming means to

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pick up material from a surface being cleaned. Since, the actual teaching reference performs the same function (i.e. cleaning material from a surface by using vacuuming means in combination with cloth means) as the base reference, when Delgado is combined with Parker, the vacuuming means, of Parker, will still pick up material from the surface being cleaned that was not picked up from the cloth since both references operate similarly. The device of Parker merely includes an extra feature (i.e. brush) that will aid in throwing the material to the container. Furthermore, since the device of Parker can be operated in various directions (as previously discussed above) it may be operated with the cloth behind the brush if so desired therefore the examiner believes the rejection is proper and thus maintained.

Appellants contend, on page 16, of the appeal brief that, **“The only supposed solution to this problem would be to limit Parker to operating in just one direction--with the brush ahead of the wetted cloth. This is the position taken in the Office Action. See Office Action at p. 7-8 (arguing that Parker is "capable of being used in only one direction if a user wants to use the device in only one direction"). But this is contrary to Parker's statement that it is constructed and intended to be operated in both directions. See, e.g., Parker at col. 7, 1. 63 - col. 8, 1. 3. Thus, one would have to deliberately disregard Parker's teachings to make the proposed combination work. Of course, Parker does not say anything about this modification because it clearly does not anticipate wetting the cleaning cloth or the many problems doing so would create. It is beyond unlikely that a person**

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of ordinary skill in the art would throw away half of the described utility of Parker to facilitate the combination with Delgado (particularly when it would result in a mess rather than enhanced cleaning)." However, the examiner respectfully disagrees with this statement. While using the device in one direction the limitations of the claims are believed to have been met but this does not mean that one has to use the device only in one direction. The device, of Delgado, works in picking up material by using a wetted cloth in combination with vacuuming means therefore the device, of Parker, will also work in picking up material and further aids in picking up material by including a rotating brush therefore the examiner believes the rejection is proper and thus maintained.

Appellants contend, on page 19, of the appeal brief that, **"There are distinct problems with this combination and modification. First, as noted above, Parker says that it is constructed to operate in both directions--that is, either by moving the brush before the cloth, or by moving the cloth before the brush. See Parker at col. 7, 1. 63 - col. 8, 1.3. In contrast, Delgado insists on operating with the cloth in front of the suction inlet. See, e.g., Delgado at col. 1, 11.44-48. Parker's teaching that the Parker device should be operated in a direction with the brush (and thus the suction inlet) in front of the cloth flatly contradicts Delgado's requirement to have the inlet behind the cleaning cloth. Thus, the two references teach mutually exclusive operations, and both reference consequently teach against their combination with the other. Furthermore, to make the combination, the person of**

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ordinary skill in the art must necessarily operate either Parker or Delgado contrary to its intended operation and teachings--that is, either by operating Parker in only one direction, or by operating Delgado in a direction contrary to Delgado's teaching. Thus, this combination forces at least one of the references to change its principle of operation." However, the examiner respectfully disagrees with this statement. Delgado teaches of cleaning up a surface and sucking up the cleaning liquid in one operation (Column 1, Lines 31-40) thereby more effectively cleaning said surface. Just because the device, of Parker, is disclosed as being used in various directions does not mean that two references may not be combined. The device, of Parker, may be used without any problems when operating in various directions to pick up material attached to the surface depending on the vacuuming pressure used, the rotation speed of the brush, the type of material being cleaned, the type of liquid being used, etc. All these parameters would be known by the operator and selected such that the device operates normally therefore the examiner believes the rejection is proper and thus maintained.

Appellants contend, on page 20, of the appeal brief that, **"The Office Action dismisses this problem by basing the rejection on the combination of Delgado with the version of Parker that has a vacuum motor. See, Office Action at 9. The problem with this argument is that the vacuum cleaner versions of Parker do not include a "the dust collecting container being adapted to receive, via a dust inlet (23), dust particles thrown by the brush arrangement," as recited by the pending**

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claims--so the resulting combination lacks all of the claim elements. Even if one assumed, for the sake of argument, that there is some motivation to combine Delgado with the version of Parker having a vacuum motor, there still would be no motivation to go further and modify the device to use a brush that throws the dirt into the collection chamber because that combination would be even worse than the combination with the vacuum-operated Parker device.” However, the examiner respectfully disagrees with this statement. Parker (the base reference) already disclosed a device that included; a rotating brush, a dust container, a cloth and a vacuum (see Figure 6 and column 4, Lines 13-17). The only limitation missing, from Parker, is the wetted cloth, which Delgado taught. The brush, of Parker, will still throw material into the container even if the material is wet (depending on the strength of the vacuum, the rotation speed of the brush etc.) therefore the examiner believes the rejection is proper and thus maintained.

Appellants contend, on page 21, of the appeal brief that, **“Similarly, although Delgado says it can be operated in any orientation, turning the devices taught in Delgado 90 degrees to a horizontal orientation to use with Parker would cause the fluid to seep uncontrollably through the capillary bristles and to the cloth, which would render the device useless.”** However, the examiner respectfully disagrees with this statement. The appellants admit that Delgado discloses that the device may be used in any orientation (see above) yet still argue that the device will not work when turned 90 degrees to a horizontal orientation. This is confusing to the examiner because

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Delgado, as admitted by the appellants teaches of being used in any orientation. Since, the device is taught as being capable of being used in any orientation the examiner believes the rejection is proper and thus maintained.

Appellants contend, on page 23, of the appeal brief that, **“Here, the prior art fails to disclose or reasonably suggest a removable combined cloth holder and liquid container unit, as recited in these claims.”** However, the examiner respectfully disagrees with this statement. Parker discloses that the cloth holder is removably attached to the base at (152) because the cloth holder can be pivoted from a one place/position (Figure 13a) to another place/position (Figure 13b and see Column 6, Lines 47-63). By pivoting the holder into an open place/position (Figure 13a) the original closed place/position of the cloth holder has been changed therefore meeting the definition “remove” according to www.dictionary.com which defines remove;

To move from a place or position

Furthermore, the cloth holder (110) may also be disassembled from hinge pins (114) in order to be completely removable if so desired by a user therefore the examiner believes the rejection is proper and thus maintained.

Appellants contend, on page 24, of the appeal brief that, **“There is No Motivation to Combine Frazer with Parker and Delgado.”** However, the examiner respectfully disagrees with this statement. The motivation is to allow one to selectably arrange brushes between acute and obtuse angles thereby more effectively removing

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material from the surface being cleaned. The intended use, as described by Frazer, is considered moot, as argued in pages 25 and 26, of the appeal brief. Since, proper motivation has been established the examiner believes the rejection is proper and thus maintained.

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/ROBERT SCRUGGS/

Primary Examiner, Art Unit 3723

Conferees:

/Joseph J. Hail, III/

Supervisory Patent Examiner, Art Unit 3723

/Boyer D. Ashley/

Supervisory Patent Examiner, Art Unit 3724

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